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Information received from non-governmental organizations

Note by the Secretariat

Addendum

Grand Council of the Crees

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1. We wish to bring to the attention of this Forum a most serious matter concerning Indigenous peoples' human rights and the Commission on Human Rights' inter-sessional Working Group that is considering the draft *U.N. Declaration on the Rights of Indigenous Peoples* for possible adoption by the U.N. General Assembly. The adoption of a declaration on the rights of indigenous peoples is a major objective of the International Decade of the World's Indigenous People, as the General Assembly has emphasized (see U.N.G.A. Res. 52/108, para. 6).

2. Over a period of about nine years, the expert members of the Working Group on Indigenous Populations (WGIP) carefully formulated the draft *U.N. Declaration*. Indigenous peoples, States, specialized agencies and academics actively participated in this process. Both the WGIP and the Sub-Commission on the Prevention of Discrimination and Protection of Minorities have approved the current text of the draft *Declaration*. However, since its inception in 1995, the inter-sessional Working Group has only provisionally approved 2 of the 45 Articles of the draft *Declaration*.

3. We are deeply concerned that the mandate of the UNCHR inter-sessional Working Group may not be renewed after the end of the International Decade of the World's Indigenous People in December 2004. This would in effect terminate the standard-setting process on the human rights of Indigenous peoples within the United Nations and would constitute a major failure within the context of the International Decade.

Urgent need to ensure an ongoing standard-setting process on Indigenous peoples' human rights

4. The UNCHR inter-sessional Working Group is slated to hold only one more session this year. There is no assurance that this standard-setting process will be continued. Therefore, we would like to emphasize the urgent need for an ongoing standard-setting process. At the same time, it is necessary to evaluate and improve the overall functioning of the Working Group.

5. First, it is important to underline that a decision to renew the mandate of the UNCHR inter-sessional Working Group to consider further the *U.N. Declaration on the Rights of Indigenous Peoples* can and should be made independently of any decision relating to the proclamation of a second Decade of the World's Indigenous People. The human rights standard-setting process concerning Indigenous peoples is too important to hinge upon the establishment of a second Decade. Rather, such a standard-setting initiative should continue in order to fulfill one of the most critical Purposes of the United Nations in the context of the world's Indigenous peoples. As the U.N. General Assembly has underlined in the context of the present Decade:

> ... one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation ... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion ... (U.N.G.A. Res. 48/163, preamble)

6. The fact that the standard-setting process has been time-consuming and difficult in terms of achieving consensus or "making progress" is evidence of the complexity of the issues and the unique nature of the status and rights of Indigenous peoples. It is also evidence, at least to some degree, of the lack of political will of some States to begin redressing past and ongoing violations of our human rights and prevent such unacceptable acts in the future.

7. Regardless of the ongoing challenges, it is crucial that the human rights of Indigenous peoples be explicitly affirmed through a standard-setting process leading to the adoption of a draft *U.N. Declaration*. While such a Declaration cannot resolve all of the fundamental issues impacting on Indigenous peoples'

rights, it is an essential and significant first step. Our basic rights must be explicitly embraced within a principled international framework.

8. Failure within the U.N. to continue this process could serve to undo the important work accomplished to date. In particular, most or all of the efforts of Indigenous peoples throughout the years in regard to the draft *U.N. Declaration* could be wiped out or severely diminished.

9. We wish to reiterate here what the Netherlands Centre for Indigenous Peoples (NCIV) has recently indicated to the 60th session of the U.N. Commission on Human Rights. Without the adoption of minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world, as carefully elaborated in the draft *U.N. Declaration*, there is no broad-based, cohesive and commonly-shared foundation on which the U.N. specialized agencies and other bodies, including the Permanent Forum, can base their policies and procedures. The U.N. Secretary General noted in 1999 that in actual practice U.N. bodies "are either not adopting particular guidelines or else are developing guidelines on the basis of different procedures". (A/54/487, p. 3, para 5).

10. We acknowledge that some U.N. specialized agencies are making genuine, good faith efforts to implement effective standards in relation to Indigenous peoples. However, in the absence of a strong, cohesive human rights instrument such as the draft *U.N. Declaration*, it becomes much more difficult to adopt a coordinated and consistent approach that commands the respect and attention of the international community.

11. In 2002, U.N. Secretary General Kofi Annan directed that the U.N. system and all of its subsidiary organs and programs follow a human rights based approach in their work. In regard to the Permanent Forum and other UN agencies and bodies dealing with Indigenous issues, how is this possible, if member States refuse to adopt international Indigenous human rights standards in a formal Declaration?

12. At the same time, should the mandate of the UNCHR inter-sessional Working Group be renewed, we must recognize that the current procedures are inadequate and ineffective. Thus the U.N. must improve the working methodology concerning the development of standards, in a manner consistent with the unique status and role of Indigenous peoples.

13. Some States may see no reason to simply continue a process that leads to little or no results. The same reality faces Indigenous peoples, nations and organizations. Therefore, it is important to determine – on an urgent basis – concrete ways to substantially improve the current standard-setting process and the procedures and functioning of the UNCHR inter-sessional Working Group.

14. There are a number of elements that could help to significantly improve the performance of the UNCHR inter-sessional Working Group and that might be considered by the Commission on Human Rights, as well as by representatives of Indigenous peoples and States, in this context. Such elements include:

- Introduction of specific criteria within the Working Group, so as to ensure strict adherence to the Purposes and Principles of the *U.N. Charter* when proposing new or modified human rights norms

- In particular, attempts to undermine the human rights of Indigenous peoples or create discriminatory double standards should not be permitted or tolerated within the Working Group

- Alteration of existing rules so as to allow the appointment of two co-chairs (one of which would be Indigenous)

- Fair and balanced consideration of Indigenous and State positions in preparing the Chair's yearly report

- Improved translations procedures so that representatives of Indigenous peoples and States could have timely Spanish, French, Russian, etc. versions of proposed revisions to the draft *Declaration*

- Increased encouragement of *joint submissions* with a view to reaching consensus on specific Articles in the draft *Declaration*

- Use of U.N. web site to make available Indigenous and State positions on the various Articles of the draft Declaration;

- Increased financial assistance to ensure equitable and democratic participation of Indigenous peoples from all regions of the globe

- Live webcasts of UNCHR WG sessions

- Use of expert panels or committees to address specific human rights issues relating to Indigenous peoples

- New strategies to increase State commitment to the objectives of the human rights standard-setting process relating to Indigenous peoples

- Ensuring an effective role for the Permanent Forum and its members in advancing the goals of human rights standard-setting

- Encouraging greater participation by specialized agencies in the Working Group

- Greater coordination between such standard-setting processes at the United Nations and those at a regional level (such as the Organization of American States)

- Increased public education and awareness of the importance of developing international human rights standards relating to Indigenous peoples

- Increased attention and priority accorded by the U.N. Commission on Human Rights and the General Assembly towards achieving a *U.N. Declaration on the Rights of indigenous Peoples*.

We call upon the Permanent Forum to strongly recommend to the Economic and Social Council the continuation of the U.N. standard-setting process relating to Indigenous peoples' human rights.

We further call upon the Permanent Forum to determine concrete ways to substantially improve the standard-setting process within the Commission on Human Rights' inter-sessional Working Group on the draft *U.N. Declaration on the Rights of Indigenous Peoples*, and to make specific recommendations to the Economic and Social Council in this regard.